SPEECH

OF

MR. TRUMAN SMITH, OF CONNECTICUT,

ON THE

NEBRASKA QUESTION.

DELIVERED IN THE SENATE OF THE UNITED STATES, FEBRUARY 10 AND 11, 1854.

The Senate having under consideration the bill to establish Territoriol Governments for Nebraska and Kensas, Mr. SMITH rose and said:

Mr. PRESIDENT: I rise to address the Senate on the subject now under consideration with unusual hesitation and reluctance. I have not been in the habit of obtruding myself on the notice of the Senate; and if I depart on the present occasion from the reserve which I have prescribed to myself, and ordinarily observed, it will be owing to my sense of the magnitude of the evils which must result from this measure, if it is to receive the sanction of the two Houses of Congress, and become the law of the land.

It is now almost fifteen years since I became a member of Congress, and I have been almost incessantly present in the one body or the other, with the exception of the 28th Congress, during which I was at home engaged in the discharge of the duties of my profession. I venture to assert here, that there is no member of this or the other House who has taken less part than I have in the agitation of those deplorable sectional questions which have from time to time, and often unnecessarily, been thrown into the two Houses to disturb, in a high degree, the harmony of our public councils, and to put in hazard the peace of the country. I have contented myself with responding in the simple accents of "yea" or "nay" to the various propositions of agitation and disturbance which have been submitted in either House. Ordinarily I have cast my vote in conformity with the predominating sentiment of my own section, for I do not pretend to be a "Northern man with Southern principles," and I have no confidence in any man who *does* set up that pretention. On one occasion, Mr. President, I did address the Senate at very considerable length on these topics, and it is the only time I have ever spoken to them in either House; it was on the 8th of July, 1850, when the Compromise measures of that year were pending here, being the day before the death of the lamented TAYLOR. I undertook to demonstrate, on that occasion, that there was nothing of practical importance in any or all of the questions then in dispute, which occasioned so much disturbance here, and so much irritation elsewhere. Mr. WEBSTER, in a speech delivered in this Chamber shortly after, paid me the high compliment of saying that I had fully succeeded in my object. I appreciate as highly as any member of this body can, the great principles of free government which lie at the foundation of this controversy, but I do not desire to have them introduced here, to become a subject of dispute, except when they can be made to have some useful practical application. As, then, I have not been an agitator, either here or elsewhere, I trust honorable Senators will accord to me a patient hearing, though they may possibly differ from the views which I shall have the honor to present.

I have risen, Mr. President, to discuss the merits of this bill in extenso, and to dwell on topics, in the first instance, which have nothing to do with the slavery question. Unfortunately, that question has been thrust into the bill. I shall, however, state other objections, which should, in my judgment, exclude this measure by the unanimous vote of the Senate; and then we can, if we please, leave the question alluded to undecided.

I say here, in broad terms, that there are objections to the bill which ought to, and I believe would, crush it to atoms, were there not mixed up with it that all-perverting and blinding element—the negro controversy. I do not know that I can get the ear of those honorable Senators who seem anxious to abrogate the 8th section of the act for the admission of Missouri into the Union, but my position is such as to authorize me to make a strong appeal to their candor and their sense of justice. I united with Southern Senators in putting down the Nebraska bill of the last session, on the very objections which I now state, notwithstanding it left the Missouri restriction untouched.

In the first place, Mr. President, I desire to

inquire of the Senate whether it is necessary or expedient for us now to organize two additional territories, when we have already no less than five, viz., Minnesota, Oregon, New Mexico, Utah, and Washington? I desire honorable Senators to point to any period in the history of this country when we had so large a number on hand as at present; and yet it is proposed to add two more. How we came at the last session to suffer the bill to organize the Territory of Washington to pass without objection, is incomprehensible to me; for, in my judgment, it was totally unnecessary.

My honorable friend, the chairman of the Committee on Territories, (M. DOUGLAS,) started at this session with a proposition to establish *one* territory, which would give us six. I do not know how long that idea lasted: I believe, however, only about one week—when the thought suddenly occurred to the chairman that it would be expedient to divide this *one* into *two* territories. And now it seems we are to have seven territories—in fact a complete litter of territories—to be supported and maintained out of the Treasury of the United States. Sir, I beg leave to enter my earnest protest agninst this policy. I verily believe that nothing could induce even Southern Senators to vote for this extravagant proposition, were not the negro element mixed up with it. Where, sir, is all this to end? Encouraged by what has already transpired, a convention has been called, as I am informed, in Oregon to form *another* territory there.

I admit that the vast expanse within our limits ought to be opened for settlement from time to time as it is needed, but the policy has been already pushed as far as existing exigencies require. I say, in the first place, to create new territories—to carry them up to the unprecedented number of seven—is contrary to the interest of the present organized States, particularly the land States. What, Mr. President, is their present condition? Are they occupied? Are the public lands in them exhausted? Are there not in Michigan, Wisconsin, Iowa, Missouri, and Arkansas, vast bodies of public lands untouched? Are there not large quantities in Illinois, a considerable quantity in Indiana, and some in Ohio, to say nothing of the States on the Lower Mississippi and the the Gulf of Mexico? I venture to assert that at least one-half of the lands in these States remain unoccupied. There is a vast quantity of *public* land within their limits, besides a quantity little less in the hands of speculators.

I say, in the second place, that it is contrary to the interest of the organized Territories to sanction the policy of this bill. There is, sir, the Territory of Minnesota open for settlement, comprising within its limits an expanse large enough to make three States like Pennsylvania. Then there are the Territories of Oregon and Washington, each sufficient for two, if not more States. The Territory of Utah is good for one State. It will hardly do to count New Mexico, for I do not believe that a sensible wolf would go to reside there. Why should we disperse our population? Why not fill up, to some extent at least, the States and Territories now organized? The objection of injury to the one and the other would seem to me insurmountable. If there be a stern necessity—political or otherwise—for this measure; if it be desirable to smash the Missouri compromise to relieve the present Administration from the embarrassments in which it has involved itself by taking the abolitionists and freesoilers of the North to its bosom, avow your policy openly, and the motives of that policy, and then we shall know where we are!

But, sir, I am anticipating. It is said that these Territories should be organized, because by that means the transit of persons and property across the continent would be facilitated. In answer to that I have to say, that this could be done by establishing military posts along the line at trivial expense. But there is a much more effectual means of accomplishing that object, which I will propound for the consideration of honorable members, and that is a Pacific railroad, for which I contended most strenuously at the last session. I wish such a road properly located, and I believe a central location the best, but I may be disposed to concede that point, and go for a southern route, if you will agree to leave us undisturbed on the slavery question. We have made several compromises with you already, gentlemen of the South, which you fly from, or at least manifest a disposition to do so. Will you stand up to the new compromise?

But, after all, sir, this business of creating Territories is no trivial affair, so far as the treasury is concerned. During the last four years we have appropriated no less than $873,332 52 for our Territories. Of this amount, $682,161 37 has been actually expended—leaving a balance of nearly $200,000 unexpended, but which is in course of being expended, and will soon be exhausted; for I have noticed that the Territories never fail to get every dollar of their appropriations. The large sum of $873,332 52 was appropriated when we had, in fact, only two Territorial governments for the whole four years, two for three years, and one for only about six months. If the five goverments had been in full blast during the whole period, the aggregate appropriations could not have been less than $1,000,000 or $1,200,000. Every Territory requires an outfit—which is ordinarily $50,000, viz: $25,000 for public buildings, $20,000 for a penitentiary, and $5,000 for a library—so that, if this bill becomes a law, there is to be paid at once out of the treasury $100,000 for the objects indicated. The annual cost of the executive, judicial, and legislative departments is about $30,000; and this will make, for seven Territories, the very considerable aggregate of $210,000 per annum.

And this, sir, is not one-half of the story. Other large expenses will be inevitable. Much will be required to extend our post office and post road system over these Territories. We all know that the Territories and new States do not refund to the Post Office Department the expenses required within their respective jurisdictions for the transportation of the mails.

In the next place, I have to say that we shall

have to incur all the expenses of extending our land system throughout this vast extent of country. The lands have to be surveyed or run out into townships and sections, and brought into the market for sale; this will probably require several hundred thousand dollars per annum. We shall have, also, to extinguish the Indian titles: first, such as are possessory; and, secondly, absolute—or where they have acquired the fee by treaty, or where the lands have been patented in conformity thereto. We had in the bill, as it stood originally, an inkling of what we are to expect from this policy. One section appropriated one hundred thousand dollars, and another two hundred thousand dollars, for enabling the President to commence negotiations to extinguish these titles. These clauses, however, have been striken out—I know not for what reason, unless it be by way of preparation for a very rapid progress of the bill through the House of Representatives, on account of the vast merits of the negro clause. But the honorable chairman of the Committee on Indian Affairs had the frankness to announce that these appropriations were not to be abandoned—that they would be put into some other bill. No doubt they will be, and I fear that the aggregate first proposed will be doubled at least, even at the present session. My honorable and most excellent friend from Massachusetts, (Mr. EVERETT,) who pronounced such an admirable discourse in this chamber yesterday, addressed a very earnest hope to this body, that ample provision might be made for the poor Indians. When these governments are formed, with all their paraphernalia, our people will rush into the Territories, and it would become a matter of necessity to extinguish the Indian title. What sum will be required for this purpose no man can tell. I should not be surprised if it should amount finally to $50,000,000 or even $100,000,000. It must be recollected that we are to deal with the titles of half-civilized—I will not call them savage—tribes, where they own the fee, and are the proprietors of the soil, which will prove a much more serious matter than the acquisition of possessory rights, as in ordinary cases.

It is certain, also, that the adoption of this measure will involve an increase of our army expenditures. The administration is now calling for a large addition to the army, and I have a strong impression resting on my mind that it is really needed, and shall vote for it, unless there be some good reason assigned to the contrary. But if you adopt this measure, a further augmentation will be required sooner or later—at least one regiment of mounted troops for each Territory. Collision with the Indians will be inevitable. Wars will be of frequent occurrence, and the expenditures under this head will extend over a long period—perhaps a quarter of a century.

I will mention here a matter which Senators may think of trivial importance, and that is the expense of delegates to Congress from our Territories. These are much greater than I had any idea of until I looked into the facts. For the last Congress they were as follows:

Minnesota.		
1st session—mileage, $1,880; per diem, $2,200 - - - -	$4,080 00	
2d session—mileage, $1,880; per diem, $704 - - - - -	2,584 00	
		$6,664 00
Oregon.		
1st session—mileage, $5,960; per diem, $2,200 - - - -	8,160 00	
2d session—mileage, $5,960; per diem, $704 - - - - -	6,664 00	
		14,824 00
Utah.		
1st session—mileage, $2,577 60; per diem, $2,200 - - - -	4,777 60	
2d session—mileage, $2,577 60; per diem, $704 - - - -	3,281 60	
		8,058 20
New Mexico.		
1st session—mileage, $2,096 80; per diem, $2,200 - - - -	4,296 80	
2d session—mileage, $2,152 80; per diem, $704 - - - -	2,856 80	
		7,153 60
		36,699 80
To this aggregate is to be added at the present Congress an amount for the Territory of Washington equal to that of Oregon, viz. - -		14,824 00
And, then, should this bill pass, we shall have a further addition of at least $6,000 per Congress for each Territory, equal to - - -		12,000 00
		$63,523 80

Nothing could more fully illustrate the inequality and abuses of the mileage system than these details, but there is no hope of a correction at the hands of Congress. Let us, then, combine this with other financial elements adverted to, and give them, in the aggregate, their proper weight.

I insist, in the next place, that this measure is perfectly impracticable. I can demonstate that it is impossible to execute it in conformity with its provisions and terms. You may do something in the nature of execution, but I say it would be a direct and palpable violation of the law. I refer particularly to those provisions for the exercise of the elective franchise and for holding office. I will not detain the Senate by reading the parts of the bill to which I allude, but I can state them briefly: It provides that a person to be capable of voting, or eligible to office, must be twenty-one years of age, a white male citizen of the United States—or an alien, also white, who has declared under oath his intention to become a citizen, and who is an inhabitant of the Territory—or, as it is expressed in another part of the bill, he must have therein "his permanent domicile, residence, habitation, and home."

Sir, I think I can demonstrate, as a legal proposition, that there are, and can be, under your present laws, no inhabitants there. There may be individuals who are bodily within the limits of those Territories; *where* they are, if any, I do not know. A member of the House of Representatives from Missouri, (Mr. HALL,) said, at the last session, that there were, in the whole country now proposed to be organized under the names of Nebraska and Kansas, about five hundred individuals; and another member,

(Mr. Richardson,) the chairman of the House Committee on Territories, thought there were about twelve hundred. I do not care which number is assumed to be correct—it being borne in mind that it is now proposed to divide this country into *two* Territories. We do not know where these five hundred or twelve hundred persons are. We do not know how many are in the proposed Nebraska, or how many in Kansas. Perhaps most or all are in Nebraska, and this would leave few or none for Kansas. However this may be, I will now endeavor to show the Senate that they cannot be called *inhabitants* for the purposes indicated in the bill.

The Intercourse Act of 1834 has many provisions which bear on this subject. By the first section of that act, all the country comprised within the limits of the proposed Territories is declared "to be the Indian country." By the second section it is provided "that no person shall be permitted to trade with any of the Indians in the Indian country, without a license therefor from the Superintendent of Indian Affairs, or Indian Agent, or Sub-Agent; which license shall be issued for a term not exceeding three years;" revocable whenever, in the opinion of the Superintendent, the party has "transgressed" any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper for him to remain in the Indian country. By the third section, a power of revocation and exclusion is vested in the President of the United States. By the fifth section, licenses to trade are restricted to citizens of the United States; and aliens, though they have declared under oath their intention to become citizens, are wholly excluded By the sixth section, aliens of every class are heavily fined if they enter the "Indian country without a passport." By the tenth section, "the Superintendent of Indian Affairs and Indian agents and sub-agents" are authorized "to remove from the Indian country all persons found therein contrary to law, and the President of the United States is authorized to direct the military force to be employed in such removal." By the twenty-third section, regulations are prescribed for the application of such force, but the details are not material.

Now, I insist that these provisions amount to an utter exclusion of *inhabitants* from the country in any and every legal sense; and that I am not alone in this opinion, appears from what was said by one of the members above alluded to, (Mr. Hall,) in the House of Representatives, at the last session, as follows: "*The gentleman from North Carolina,* (Mr. Clingman,) *in the first place, objects to this Territory, because there are only five or six hundred people settled there. Why is it that there are not more people there? Simply because your laws will not let a white man settle there.*" And further: "*As soon as a white man goes into the Territory, without a license from the Indian Department, there is a company of dragoons to run him out of the Territory.*"

I have a great respect for, and confidence in, the learning and ability of the chairman of the Committee on Territories, and I should like to have him explain how he can get *inhabitants* into a country where by law no person has a right to be for a single hour, except by license for a short period, and that too revocable.

Well, sir, in the year 1817, I studied law in companionship with my honorable friend from Delaware, (Mr. Clayton,) in good old Connecticut, and I then learned that, in order to constitute an *inhabitant*, a man must have a settled, permanent residence. There must be no *animo revertendi*—no intention to go back to his old abode. Can it be said that licensed traders are in this predicament—that is to say, without the *animo revertendi*—when the law rigidly limits their presence in the Territory to three years, subject to be turned out at any time, at the pleasure of the President, or either of the other officers named in the act. A licensed trader an inhabitant! There are other things in the bill which look very mysterious; but certainly it is a very great mystery how the honorable chairman expects to turn a licensed trader into an inhabitant. As for the people who go there without license, the honorable Mr. Hall tells us that the moment they make their appearance a company of dragoons stood ready, sword in hand, armed to the teeth, to chase them out of the country. Sir, a man was once asked where he lived? He replied, "all along shore." You might as well undertake to convert this personage into an inhabitant, as to call the few people such who have been roaming over that country contrary to law. My honorable friend from Illinois is so anxious to put through the negro clause of this bill, that he has worked himself up to the extravagant proposition, that these *people* may be legally called *inhabitants*. They are to be baptised into the *name* of inhabitants, in violation of our most familiar ideas, and all just notions on the subject are to be turned upside down.

Perhaps it will be said that there is some portion of these Territories to which the Indian title has been extinguished; and the honorable chairman may insist that, so far as that portion is concerned, it has got *some* inhabitants any how; and we may go up hill and down dale, and search out all the nooks and corners of the country, and may perchance find *somebody* whom we can in a proper sense call an inhabitant, but I very strongly suspect—I have a mind to use the word "*guess*," for I have an indisputable title to it as a native of New England—that the five hundred *people* mentioned by Mr. Hall, and the twelve hundred conjectured by Mr. Richardson, will be found on the Indian lands, and in immediate contract with the Indian tribes.

But if it be otherwise, or, in other words, if the population, such as it is, can be assigned to the other part of the Territories, then the honorable chairman, before he can call them *inhabitants* will have to trample under foot another act of Congress. Yes, sir, *another* act. I refer, sir, to the act of 1807, by which it is expressly provided, that if any person or persons shall intrude on the public lands, he shall be treated as a trespasser, and it is made the duty of the proper officer of the Government to turn him out, and,

I think, also of the President to employ a military force if necessary. Here we have the dragoons again; chasing down the *inhabitants* of the honorable Senator from Illinois. I do not know but that one of them may be the abolition missionary, mentioned by the honorable Senator, who manifested his abolitionism and his hatred of slavery in a very peculiar and remarkable manner, by purchasing and bringing into the country a slave, whether male or female the Senator did not say; perhaps he had better inquire.

Mr. DOUGLAS. I will inquire, if the gentleman wishes it.

Mr. SMITH. No, sir. I have nothing to do with the matter. I surrender the whole negro question to the Senator; he has jurisdiction of it, and I believe of nothing else.

Nor can the honorable Senator (Mr. DOUGLAS) get along with the law of 1841, which authorizes pre-emption rights. By the act referred to it is provided that whenever the Indian title to the public lands has been extinguished, and the same have been surveyed, it shall be lawful for a citizen, or an alien who has declared under oath an intention to become a citizen, to enter upon a quarter section of such lands, settle thereon, and thus acquire the right of pre-emption on certain specified terms. Now *these* lands have not been surveyed, and the difficulty is equally insurmountable in both parts of these Territories, that is to say, where the Indian title has been extinguished and where it has not. I am very sorry that there should be so many obstacles to the progress of the Senator, for I have a sincere respect for him, nay, admiration, on account of his remarkable fecundity in the line of Territories. We have every session the parturition of a Territory, occasionally two at a time as now. I am sorry that the travail throes should be so terrific. I do not believe that even the Cæsarian operation will save the patient. As, however, the honorable Senator is a devotee of *progress*, he must give birth to a Territory occasionally. I will proffer him a little bit of advice if he will permit me, by way of preparation for "lying in." In the first place, he should have the Indian title extinguished to a good breadth of country; and if he has any respect for the faith of treaties, such country should be located far away from those Indian Territories which we have guarantied and bound ourselves by the most solemn obligations to secure to that unfortunate race forever.

In the next place, the Senator ought to ask for an appropriation to have lands surveyed; and after this has been done, and the country marked off into townships, sections, and quarter sections, the settlers can go there and build their log-cabins—when my friend will have people in the country whom he can properly call *inhabitants*, and *then* he may go it blind in this business of manufacturing Territories, for aught I care. Hence there are no *inhabitants* there, and can be none; and, therefore, there can be neither voters nor office-holders, in conformity with the provisions of this bill.

It is a remarkable fact that the Senator (Mr. DOUGLAS) does not in this bill provide for the suspension or repeal either of the act of 1804 or that of 1807. Thus he leaves those acts in full force, so that not only the Governor, but the legislative assembly itself, would be liable to be chased out of the Territories by the dragoons. Suppose some place can be found where it would be lawful to erect a structure for the accommodation of the assembly, and suppose, moreover, that the body convenes and is duly organized. Could they deliberate in peace? Why, sir, in the very midst of a flight of oratory of some patriot on (say) the negro question—of which, according to this bill, they are to have sole jurisdiction—the dragoons might appear, and then we should have an universal stampede of Governor, counsellors, and representatives! I can see them, even now, streaming across the country, the dragoons in full chase, with the honorable Senator (who would naturally be at hand to take care of his offspring) following, booted and spurred, close at their heels, and trying to arrest so untimely a procedure by reading the riot act.

Besides, what is to be the state of things if we invite our people to rush in before the lands are surveyed? Will it not produce confusion, utter confusion? Suppose on the surveys being made, it turns out that two or more settlers are on the same quarter section, which of them is to have it? To open the country to settlement in advance of the public surveys, is to the last degree absurd. Nay, you do not open it, you only ask our people to violate existing laws, and you make yourselves accessories before the fact to every species of enormity.

But there are other parts of the machinery which will be found nearly as stubborn, if not quite. The Governor of each Territory is to lay off the same into council and representative districts, and every counsellor and representative must be an inhabitant of the district. I would like to witness the process of laying off this country for the purposes indicated. How is it to be done? Where are the villages? Where are the inhabitants so grouped as that they could conveniently be comprised within a district? For aught I can see, in the exuberance of this policy, the Governor would have to manage somewhat in this wise: Log-cabin No. 1, situated near the top of branch so and so, shall be district No. 1; and log-cabin No. 2, situated fifty miles northeast of No. 1, shall be district No. 2, and so on, to the end of the chapter. Perhaps the Governor would be reduced to such straits that he would have to constitute any half dozen log-cabins in the same vicinage, each into a district by itself, and then each occupant would be sure to get into either the council or the legislative assembly. I think that if the districts, as they must necessarily be constituted, were laid down on paper, it would cast this proceeding into contempt, and render it all a farce from beginning to end.

But, Mr. President, I now come to a question which I deem of much higher importance than any to which I have hitherto adverted. It is a question which, in my judgment, deeply con-

cerns the honor of this Republic and the character of this nation for integrity and good faith. I say that if you pass this bill you initiate a policy which will result in the outrageous breach of numerous treaties which you have made with the Indian tribes now having a resting place west of the organized States. Nay, it is a present violation of those treaties. It will bring upon them irremediable calamities, and will within a few years consign them to utter annihilation. I am very much indebted to a gentleman recently a member of the House of Representatives, (Mr. Howard, of Texas,) for a digest of these treaties. I have it here in the Congressional Globe of last session. It will greatly facilitate and expedite the examination of the subject to use this digest, rather than to refer to the treaties themselves. Before I proceed to speak particularly of these treaties, I wish to recur to the act of 1830, "to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi." By the third section of the act it is provided that in making the exchanges, "*it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them and their heirs and successors, the country so exchanged with them, and if they prefer it the United States will cause a patent or grant to be made and executed to them for the same.*" This is certainly very strong language. The President is authorized not only to give an assurance, but one of the most formal and solemn character—not only that they should be permitted to occupy their new homes in peace, but that the same should descend to their children and their childrens' children forever; and, moreover, that they might have the option of an absolute title secured by a patent under the sign manual of the President, and bearing the broad seal of our Republic. Considering that we were about to deal with poor, benighted, friendless Indians, such an enactment imposes on us all the obligations of the most solemn treaties; and we have no moral right either to set them aside or to evade in the slightest degree their force. Such was your legislation, based on the policy of removing the Indians from the east side of the Mississippi west of the organized States. It was your policy to take them from their homes—from the graves of their fathers, their wives, and children, across the "Father of Waters" into a land they knew not: and to induce them to yield all that men deem sacred, we said to them you shall have here *an abiding place;* here you shall no longer be disturbed by the lawless, nor pursued with importunities to yield your new abode. Well, sir, the treaties were made; the promises were all given and the Indians were incedd to remove—though with much difficuty. Even a military force had to be employed to some extent, if I do not mistake the history of the country. I will not speak of the hardships of that journey, nor of those greater hardships which they must have encountered when they found themselves in the far West without dwellings, and with inadequate subsistence. This measure had, in fact, little reference to the true interest of these unhappy people, whatever suggestions to that effect may be found in the public documents, but much more to the advancement of the States from which they were removed, in population and wealth. Hence obligations arise which appeal to Heaven, and which the highest considerations of duty require us to execute and fulfill. What, Mr. President, are these treaties? I find that they divide themselves into three different classes: First, treaties which stipulate in express terms that the lands ceded shall not be included within any State or Territory without the consent of the Indians. Secondly, treaties which contain the same stipulation, without any qualification whatever, that is to say, the words "without their consent" are left out, so that the stipulation is absolute; and in the third class there is nothing said in express terms about their being included in any State or Territory; but language is used of an equivalent character. The language in every instance imports that these lands were to be their permanent home and final abiding place.

I ask honorable Senators to tell me, when it is said to an Indian tribe that they shall have a certain tract of country as a permanent home, what is meant by it? Do you not intend that *they* shall understand it as importing a guaranty that they shall have it as an abiding place forever? Indeed I consider the language of those treaties which contain only general words as importing the same thing as the more precise stipulations of the first two classes of treaties, particularly as their general words connect themselves with the third section of the act of 1830.

But, Mr. President, my friend, the chairman of the Committee on Territories, insists that he has delivered the bill from the objections which I now urge. In the first place it is admitted that the lines propounded sweep within such Territory the Indian lands thereto appertaining; or, in other words, the exterior lines of Nebraska embrace a portion of these Indian grants, and the exterior lines of Kansas the residue, so that they are all included either in the one or the other. This, it is admitted, would be a clear and palpable violation of the treaties. In order to obviate this difficulty my honorable friend has inserted in so much of the bill as relates to Nebraska the following proviso:

"That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska."

And then he has inserted a similar proviso in that part of the bill which relates to Kansas.

My honorable friend, the chairman, *thrusts* them all into the Territories, and then, in order to relieve the bill of bad faith, he *snatches* them

out—where they are to remain until they shall "signify to the President of the United States their assent to be included within the proper Territory." How signify? What amounts to a signifying of their assent? Will they write a letter to the President? Are they to send an Indian *talk?* Is a delegation to appear at the white house to smoke with the Executive the calumet of peace? There is no suggestion of a treaty. The Senate is to have nothing to do with the subject; but something is to be done which, in the judgment of the Executive, shall amount to a signifying of assent—then they are to jump right in.

You sweep your boundaries around them in the first instance, and have them momentarily, then put them out with a great parade of fairness, and then you set a snare for them under the head of "assent signified"—knowing that it would have precisely the same affect as if all this jugglery of *in* and *out* and *in* again were not resorted to.

Now, Mr. President, I am a plain man, and I desire to say, in broad terms and in measured language, that this is a mockery—a complete mockery! "You keep the word of promise to the ear, but break it to the hope." Now I want to propound to my honorable friend, the chairman of the committee, one question. I want to know if this is not a *final* act of legislation? Does not this bill include within the Territories all these grants *in futuro*, and all the residue of the country comprised within the exterior limits, *in presenti?* And I maintain that to include them by a final act of legislation—though *in futuro*—is just as much a breach of the treaties as it would be to include them *in presenti*. You do the very thing which the Indians provided against by these stipulations. They knew that if they were included within the limits of any Territory or State, every effort would be made to get away their lands. And do you gain any thing—so far as the question of good faith is concerned—by including them in the Territories *in futuro*, and then embarking instantly in that very effort? Does it make any difference to the poor Indians in what *order* the facts occur? The purpose to include them in the Territories and to get away their lands is entertained at one and the same moment, and that is avowed on the face of the bill. I beg Senators to consider what was the object of these treaty stipulations not to be included in the limits of any State or Territory. Was it to secure to the Indians their lands? No! because the treaties declare in express terms that they shall be theirs forever. Was it to secure to them the right of self-government? Not at all: for the treaties are equally explicit on that point. What, then, was the object of it? It was to protect themselves against the all-corrupting effect of our glittering gold. They had experienced the bitter consequences of such seductions before. Indeed it is well known that it has been the settled policy of this Government for the last quarter of a century, inaugurated by the late President Jackson, to separate the Indian race wholly from our own people, and to place them by themselves, where they could be educated, civilized, and, if possible, christianized: where there would be no motive, either on the part of the General Government or the people of any State or Territory, for dispossessing them of their lands. All this is now to be reversed. And how long can you expect to escape the reproach of just and good men every where. Sir, I rejoice that there is one honorable member of this body—I refer to my friend from Texas (Mr. HOUSTON)—who has long been the protector and guardian of these poor people, and who will endeavor to assert and vindicate their rights under the treaties to which I have referred. He is much more competent to do justice to the subject than I am, and I rejoice to be able to turn the case over to his faithful hands. If you commence the policy of dispossessing, you will pursue it to a consummation. Where are these unfortunate people to go? Will there not soon be a vast population in Minnesota—an immense column of enlightened, intelligent, patriotic freemen, rushing forward from the Mississippi to the base of the Rocky Mountains, and ultimately overleaping that barrier, and occupying the Territory beyond. I ask you, then, can they go North? No, sir! manifestly no! Will they go South: will you turn them down upon the State of Texas? Would it be just to that State to do so? And how long could they exist there? Is there not another mighty column advancing from the Gulf of Mexico to the North and Northwest, which is ere long to give to the State of Texas an amount of population and wealth which will render her little if any inferior to any State in the Union?

You first lay hands on all their territory east of the Mississippi, and now you lay hands on all their territory west of that river: or rather you initiate a policy which is to have that result, to a dead certainty. If you pass this bill you write down against the aboriginal inhabitants of this country a sentence of annihilation. Are they to be dealt with fairly even in carrying out this scheme—which seems to me to be perfidious. Will it not be a spoliation? It is true indemnities will be granted—perhaps inadequate; but whether adequate or inadequate, nine-tenths of the amount will find its way into the pockets of our own people—leaving no substantial benefit to the poor Indians.

We are to crush them down, rob them of their territory, and to leave them without an abiding place.

Ere long nothing will remain of them, but the record of their wrongs on the darkest page of our history.

It was mainly on the ground last assumed that I opposed the bill of the last session, though it left the Missouri restriction in full vigor. Having passed the House, a motion was made on the 2d of March, by the honorable Chairman (Mr. DOUGLAS) to proceed to its consideration, which failed by a vote of 20 yeas to 25 nays. This motion was renewed the succeeding day, and the bill was taken up without a division, when a Senator from Arkansas moved to lay it on the table, which prevailed by a vote of 23

yeas to 17 nays. On the first occasion four Northern Senators, viz: Messrs. Bradbury, Davis, Fish, and Foot voted with me in the negative, and on the last, four also, viz: Messrs. Broadhead, Davis, Fish, and Phelps voted with me in the negative. Messrs. Broadhead and Phelps were not present on the first occasion, and Mr. Bradbury on the last. It thus appears that seven Northern Senators, including myself, opposed themselves to this bill resolutely and firmly, no doubt all on the grounds now assumed, and we were supported by every Senator from the slaveholding States, with the exception of the Senators from Missouri, (Messrs. Atchison and Geyer,) and it is with infinite concern I see a disposition manifested now by my friends of the slave-holding States to change front and go for this bill *en masse*. But right cannot be made wrong, nor wrong right, by the introduction of the negro clause. I shall not envy the position of honorable Senators if such shall be their ultimate course. What will posterity say? What good and just men every where?

Sir, it is contrary to the true interests of the slave-holding States to filch these lands from the poor Indians, and break up their settlements. My opinion is, we should form the country covered by the grants, and perhaps some of the adjoining country, into a distinct territory—an Indian territory, and then we should concede to them a Delegate in Congress, which if I mistake not, we have authorized them to expect by the terms of one or more of the treaties. I would then change our policy entirely. I would exclude the trader, and above all I would exclude the great curse of the Indian race, *alcohol*. Whatever goods or agricultural instruments they require can be purchased by the United States through the War Department. I would pursue such a policy as to gradually wean them from the chase to the avocations of the plough, the axe, and the scythe, and thus build up a prosperous if not a great community, as a perpetual monument to the justice and goodness of the American people. I would not depart from the treaties even though you now proposed for the first time to enact the exclusion of slavery north of 36° 30'. I am for standing by the faith of treaties at all hazards. "*Fiat justitia, ruat coelum.*"

(Here the Senate, on motion of Mr. SEWARD, adjourned; and on the succeeding day, to wit, Friday, February 11th, it resumed the consideration of the subject, when Mr. SMITH proceeded as follows:)

Mr. PRESIDENT: I resume the remarks which I was addressing to the Senate yesterday, by recurring to some of the last words uttered by the great, DANIEL WEBSTER in this chamber. They were as follows:

"Sir, my object is peace; my object is reconciliation. My purpose is not to make up a case for the North or South. My object is not to continue useless and irritating controversies. I am against agitators, North and South. I am against local ideas, North and South; and against all narrow and local contests. I am an American, and know no locality in America—that is my country—that is my country. My heart, my sentiments, my judgment, demand of me that I shall pursue the good and the harmony and the Union of the whole country."

Precisely in this spirit I rise, Mr. President, to oppose the clauses of this bill which proposes to abrogate the Missouri Compromise. In the same generous, liberal, and truly national spirit, with a view to the peace of the country, and to sustain the reconciliation so happily accomplished in 1850, I shall resist to the last this unnecessary measure. The course which I pursued at the last session, in voting, as already stated, against the bill for organizing Nebraska, when it left the exclusion of slavery north of 36° 30" untouched, is proof conclusive that my opposition now is not based on sectional motives. I feel at liberty, under such circumstances, to speak, and shall speak with entire freedom. I do not hesitate, Mr. President, to pronounce this proposition *a fire brand* thrown into the two houses of Congress. It is, in my judgment, calculated to inflame the country in a high degree, and to bring back upon us all the dangers and evils from which we have but just escaped by the efforts of our wisest and best men. We are now to undo the great measures of peace which were adopted in 1850, and which have been cordially acquiesced in by all parties and all sections of the country. In short, we are to have strifes, bickerings, alienations, and disturbance, without the slightest prospect of benefit to either section. I hope there is enough of goodness and moderation in the body to put down this project of mischief at once, so that we may consecrate our time and our faculties to the promotion of such measures as are demanded by the welfare of a great and united people.

And here, Mr. President, I cannot help noticing the extraordinary manner in which this measure has been sprung upon Congress. Was it suggested or dreamed of before we met at this Capitol on the first Monday of December? Had it been adverted to in the newspapers, or at public meetings of our citizens, either North or South? Have the legislatures of the Southern States demanded it, or has there been any expression of public sentiment, either there or elsewhere, to sustain it? On the contrary, is not the universal acquiesence of the country in the bill of the last session, which left the Missouri restriction in full force, proof conclusive that the American people have been taken completely by surprise?

Why, sir, that bill was carried through the House by a large majority—the vote being yeas 98, nays 43. There were in the affirmative no less than twenty votes from the slaveholding States, viz: From Maryland, Evans; from Virginia, Holliday, McMullen, and Powell; from Alabama, Cobb and Smith; from Louisiana, Landry and St. Martin; from Kentucky, Gray Stone, and Ward; from Tennessee, Johnson, (Andrew,) Watkins, and Williams; and from Missouri, Darby, Hall, Miller, and Porter. Thus we find gentlemen from every part of the country supporting the organization of Nebraska with slavery totally excluded from its limits by the act of 1820. I am disposed to think that there is not a man in the nation who has been more strenuous in upholding the rights, the interests, and the honor of his own section, than the pre-

sent able Executive of Tennessee; and yet he deemed it but just that the Missouri restriction should be maintained, and Nebraska organized subject to that restriction unimpaired and in force. I would inquire, moreover, why the President did not advert to this subject in his annual message at the opening of the present session. If the restriction be a grievance, and its repeal be called for by the public sentiment of the South, surely he must have known it. If it be repugnant to the adjustment of 1850, and subversive of our true interests, surely the fact could not have escaped *his* vigilance. And yet, sir, in a moment of profound repose, and without the knowledge or suspicion, I venture to say, of five members, this magazine of explosive materials has been introduced into Congress, and we are required to deal with it as best we may. I am confident the impression will exist universally, or nearly so, that there are other objects than the public good, which have prompted this extraordinary procedure. I fear that this is nothing but a movement on the political checker-board, and has more reference to party objects, and future presidential elections, than to the real welfare of the American people.

I cannot avoid, Mr. President, taking some notice here of the singular mutations which this measure has undergone. It has been presented to us in all manner of shapes and forms. In the first place, we have submitted to us a report from the Committee on Territories, in which, after looking at the subject in all its bearings, they very wisely and properly conclude, that they could not recommend the repeal of the 8th section of the Missouri act, and they report a bill which certainly does not repeal it in express terms, but concludes with the following section:

"SEC. 21. *And be it further enacted*, That, in order to avoid all misconstruction, it is hereby declared to be the true intent and meaning of this act, so far as the question of slavery is concerned, to carry into practical operation the following propositions and principles established by the compromise measures of 1850, to wit:

"First, that all questions pertaining to slavery in the Territories, and in the new States to be formed therefrom, are to be left to the decision of the people residing therein, through their appropriate representatives.

"Second, that 'all cases involving title to slaves' and 'questions of personal freedom,' are referred to the adjudication of the local tribunals, with the right of appeal to the Supreme Court of the United States.

"Third, that the provisions of the Constitution and laws of the United States, in respect to fugitives from service, are to be carried into faithful execution in all 'the organized Territories,' the same as in the States."

I consider this section as one of the most extraordinary samples of legislation which has ever been presented to the civilized world. It opens with intimating that the bill is susceptible of some "misconstruction," but how, or where, is not indicated. The question here arises, that if there be doubtful clauses in the bills, why not amend them at once. Why resort to such a roundabout way to do what might be done with two or three dashes of the pen? But the honorable chairman will have it that there is a lurking doubt somewhere, which he himself perhaps could not detect. The bill is everywhere very plain, and does not touch the Missouri restriction. But, nevertheless, he informs us that his object is "to carry into practical operation" certain "propositions and principles." Well, then, sir, why not write them down at once? But this, it seems, would not answer some inscrutible purpose of the chairman, and therefore he adds as *one* of his propositions or principles, "that all questions pertaining to slavery in the Territories and in the new States to be formed therefrom, are to be left to the people residing therein, through their appropriate representatives." Now, sir, what does this mean? Does it repeal the restriction of 1820? Was it intended to repeal it? If so, why not use the ordinary words of repeal? I venture to assert that never has Congress, nor the American people, been puzzled so much as they were by this Delphic oracle. In one quarter of the Union it was understood to mean one thing and in the opposite quarter á different thing. I, myself, concluded that it would take a jury of nineteen Philadelphia lawyers to fix its meaning. I am pretty well satisfied that the real object was to discredit the 8th section and to throw it into doubt. I think I can find a clue to the real purpose of that part of the bill now before us, in the language addressed by the honorable chairman (Mr. DOUGLAS) to the Senate, on opening this debate, as follows:

"I know there are some men, Whigs and Democrats, who, not willing to repudiate the Baltimore platform of their own party, would be willing to vote for this principle, provided they could do so in such equivocal terms that they could deny that it means what it was intended to mean in certain localities. I do not wish to deal in any equivocal language."

We all know the honorable chairman is distinguished for his frankness; he uses no equivocal language—not he! His object was truly philanthropic—it was to accommodate certain tender-footed "Whigs and Democrats" who might be "willing to vote for this principle"—that is to say, the overthrow of the Missouri compromise—"provided" they could do so in such equivocal terms that they could deny that it means what it is intended to mean in certain localities. Ah! ha! "equivocal terms!" Great statesmanship, this!

I think the bill was before us in this form for about three days, when my honorable friend from Kentucky, (Mr. DIXON,)—and I feel under great obligation to him for the service he has rendered us—introduced a proposition to abrogate the 8th section of the act of 1820 at once. This seems to have involved my frend, the chairman for the Territories, in pretty serious difficulty, and he all at once concluded to come up to the scratch; therefore he reports a new bill, dividing the one Territory which he proposed originally into two, and inserting instead of the 21st section of the bill first reported the following provision:

"That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere within the United States. Except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which was superseded by the principles of the legislation of eighteen hundred and fifty, commonly called the Compromise Measures, and is hereby declared inoperative."

Whereupon the honorable chairman delivers himself in his opening speech as follows:

"Upon the other point, that pertaining to the question of slavery in the Territories, it was the intention of the committee to be equally explicit. We took the principles established by the Compromise acts of 1850 as our guide, and intended to make each and every provision of the bill accord with those principles. Those measures established and rest upon the great principles of self government, that the people should be allowed to decide the questions of their domestic institutions for themselves, subject only to such limitations and restrictions as are imposed by the Constitution of the United States, instead of having them determined by an arbitrary or geographical line."

That is to say, the committee, by the 21st section of the bill as first reported, really intended to set aside the Missouri restriction; for it has been all the while insisted that the 8th section of the act of 1820 is in principle and substance incompatible with the measures of 1850. The honorable chairman seems to have forgotten that he had declared in his report, in express terms, that the committee could not recommend the repeal of that section. The speech and the report do not jump together very well; or, in other words, he is like one of Shakspeare's characters, "the latter end" of whose discourse "forgot the beginning." But it seems that the 8th section "was superseded by the legislation of 1850." Whoever before heard of a solemn act of Congress being superseded by principles; and, if superseded, where the necessity of adverting to the subject at all.

This curious performance seems to have perplexed honorable Senators nearly as much as the original demonstration. The honorable chairman at length found out that it would hardly do; and, therefore, as he says, he consulted the *friends* of the measure, or, in other words, he held a council of war; and the result of their united meditations is a substitute, which I will now examine.

In course of a practice, Mr. President, which extended over some fifteen or twenty years, I became somewhat familiar with the construing of statutes, and knew how their different parts were designated. We, who are lawyers, have all heard of the preamble of a statute; the enacting clause; the exception, or qualification, and the proviso; but I never before heard of the exordium and the peroration of a statute or bill.

Here we have the exordium of the proposed amendment.

"Which" (that is to say, the 8th section of the act of 1820) "being inconsistent with the principle of non-intervention by Congress, with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the Compromise measures."

Here the enacting clause.

"Is hereby declared inoperative and void."

Here the peroration.

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

My honorable friend from Massachusetts (Mr. EVERETT) seemed to be greatly perplexed with this singular affair, and asked with great propriety why you do not simply say that the 8th section "be and the same is hereby repealed?" No doubt it would have been done so, were it not for the political elements to which I have adverted. Probably the honorable chairman (Mr. DOUGLAS) had in his eye tender-footed Whigs and Democrats, for whom he seems to have a profound solicitude. This looks to me very much like adroit or cunning legislation. I suspect it was apprehended that it would not quite do to break down the Missouri Compromise at once, or by the ordinary simple plain enactment. The idea must be held out that if the 8th section was not absolutely overthrown by the legislation of 1850, it was in some mysterious way undermined, or so weakened, that it is proper now to blow it into the air. It was about half demolished then, and there is a call on us now to give it the *coup de grace*.

What is meant by the expression "inconsistent with the principle of non-intervention?" Do you mean to assert that the legislation of 1850 is so incompatible with or repuguant to that of 1820, as to annul the latter? We all know that incompatibility between acts may be such as that both cannot possibly stand, and that in such case the latter will so operate as to repeal the former. Will any one assume the responsibility of affiming that incompability has annulled the act of 1820. If so, where is the necessity of your interposition; and, if not, why cannot the measures stand together? Can more be said than that the legislation of 1850 is *unlike* that of 1820—as it undoubtedly is? Is it uncommon to put into acts of legislation, touching kindred subjects, different, or unlike provisions? Must all Territorial legislation be cast in the same mould? May you not have one set of provisions for one Territory and a different set for another? Nay: is not this often indispensable? You therefore arrive at the conclusion (which you were determined to reach anyhow) that the 8th section shall be "inoperative and void"—without any reason. It is your sovereign will and pleasure. Further, are not the words "inoperative and void" perfectly explicit? What occasion is there to declare their "true intent and meaning." Or, in other words, why have you introduced the peroration, and why a procedure so extraordinary?

Sir, this is legislation with excuses, or apologies.

You knew that a direct repeal, and in the ordinary form would give a great shock to public sentement in this country, and therefore the subject must be befogged, and be made to assume a plausible aspect.

Can it be possible that honorable and upright gentlemen, from the South, are about to approve such indirection and artifice? We know that legislation like the act of 1820 has ever been to them a stumbling block and an offence, and they may be now willing to get rid of the 8th section; but it seems to me that it would better befit their character for frankness to have the abrogation accomplished in the ordinary way, and in simple plain terms.

Mr President, in my judgment, the extraordinary proceedings here depicted are proof con-

clusive that the incompatibility which has been set up, is all a pretence—is an afterthought. The incessant mutations which the proposed legislation has undergone, within a brief period, show that you have no fixed ideas on the subject, and the adroitness of the verbiage which you throw around the only operative clause prove an apprehension that the measure may after all turn out quite hazardous. Indeed, the whole proceedings have a very bad aspect; and, unless we are willing that the people of this country should believe that the Senate of the United States has ceased to be the exalted, dignified, body it was formerly, we should reject, with indignation, a measure imbued with such singular, not to say unworthy elements.

And here, sir, I must be permitted to notice the many incongruous notes which "the organ" published in this city, has sounded forth on this subject. When the honorable chairman asserted in his report, in substance, that he and his associates *could not recommend* an abrogation of the 8th section, and when, shortly after the honorable Senator from Massachusetts, (Mr. SUMNER,) proposed an express re-enactment of that section, and the honorable Senator from Kentucky, (Mr. DIXON,) a repeal, these gentlemen were held up to the country as representing extreme opinions, and as being actuated by factious or at least partisan motives. The former was pronounced a mischivous anti-slavery agitator, and the latter and equally mischivous pro-slavery agitator, while the honorable chairman was all that could be moderate, just, and statesmanlike. He (it was insisted) was pursuing an intermediate course, and we were all asked to rally around him and save the country from another convulsion. But soon thereafter he took a leap South and assumed the position of annulment, and then "the organ" lept after him, and indeed, sticks to him as closely as his own shadow. It seems to me that the paper alluded to must be "the organ" of the honorable chairman rather than of the Administration. It is clearly contrary to the interests of the latter to involve Congress and the country in another controversey on the subject of slavery.

But, Mr. President, I do no intend to rest the case on considerations such as these. I propose to examine the subject in all its bearings, and by a full and precise induction of facts and considerations to show beyond doubt or cavil there is nothing in the legislation of 1850 incompatible with that of 1820, and that it was the intention of Congress and the expectation of the country both should stand together, as well they may. And here I would observe that the honorable chairman, in his opening speech, committed himself to an issue of a very grave character, to which I mean to hold him on the present occasin. He says:

> "That a close examination of those acts clearly establishes the fact that it was the intent, as well as the legal effect of the Compromise Measures of 1850, to supersede the Missouri Compromise, and all geographical and Territorial lines.

Here is, first, a direct and positive allegation of a fact that it was "*the intent*" of the measures of 1850 to supercede the Missouri Compromise, and secondly, an opinion declared that such is their "legal effect."

I deny, utterly, the fact, and I controvert, with equal positiveness, the soundness of the opinion. I will not stop to inquire why the honorable chairman is dabling with the subject at all, if his allegations are true, but I choose to meet the issue at once, and flat-footed.

What, Mr. President, were the measures of 1850? They were, (1) to admit California; (2) to adjust the disputed boundary with Texas; (3) to abrogate the slave trade in the District of Columbia; (4) to amend our laws for the return of fugitives from labor, so as to make them more effective; and finally, to provide Territorial governments for Utah and New Mexico. It is not pretended that any of these measures, other than those last indicated, have the slightest bearing on this subject. We will inquire then, whether there is any incompatability between the acts organizing Utah and New Mexico, and legislation for Nebraska and Kansas, leaving the 8th section of the act of 1820 in force.

I would observe, in the first place, that there is nothing in either of the acts first mentioned, on the subject of slavery, except the following clause, "And provided further, that when admitted as a State, the said territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission." We do not propose that you should re-enact, in express terms, the restrictions of 1820, but are willing to vote for a bill, so far as this objection is concerned, in precise conformity with the provisions of that which passed the House at the last session, or in other words, for a bill which says nothing of slavery one way or the other. The only difference between such bill and the Utah and New Mexico acts would consist in the fact that the clause above recited appears in the former and would not appear in the latter. Be it remembered that the 8th section of the act of 1820 provides no rule for the admission of States into the Union which might be formed out of the territory lying north of 36° 30′, but simply provides that, from such territory "slavery and involuntary servitude, otherwise than in punishment of crimes, whereof the parties shall have been duly convicted, shall be and is hereby forever prohibited." Notwithstanding the word "forever" is used, I apprehend that the 8th section applies only to the country during its Territorial existence, and should a State present itself for admission, with a constitution tolerating slavery, we could receive it into the great national family without violating that section. How then, can the clause which I have recited from the Utah and New Mexico acts, be considered incompatible with legislatien for Nebraska and Kansas, which is silent on the subject of slavery, or which, in other words, leaves those Territories subject to the restrictions of 1020. It is difficult to see how a State which applies for admission can be excluded though her constitution tolerates slavery, and though she be formed out of territory made free by the act of 1820.

Any State now free, can so amend its constitution as to introduce slavery if it pleases, and it is obvious that the people of the States, whether already in or about to come in, must decide this troublesome question for themselves. What then, does the clause in the acts organizing governments for Utah and New Mexico amount to after all? Fortunately we are not without some light upon this subject. Mr. WEBSTER voted in favor of that clause when proposed as an amendment by a late Senator from Louisiana, (Mr. SOULE,) but he observed, "I do not see much practical utility in this amendment." And further, the honorable chairman himself, in his speech at Chicago, (October 23, 1850,) took even stronger ground—"the bills," said he, "establishing Territorial governments for Utah and New Mexico are silent upon the subject of slavery, except the provision that, when they should be admitted into the Union as States, each should decide the question of slavery for itself. This latter provision was not incorporated in my original bills, for the reason that I conceived it to involve a principle so clearly deducible from the Constitution that it was unnecessary to embody it in the form of legal enactment. But when it was offered as an amendment to the bills, I cheerfully voted for it, lest its rejection should be deemed a denial of the principle asserted in it." So that Mr. WEBSTER could see "very little of practical utility" in the clause, and the honorable chairman no utility whatever. The legislation of 1850 was then, in effect, silent on the subject of slavery. Why can you not be silent now, and how can any one assert that it was the intent as well as the legal effect of the Compromises of 1850 to supercede the Missouri Compromise? You organise Territorial governments for certain countries, and you do not deem it expedient to prohibit the introduction of slavery. What has that to do with countries many hundred miles off, where the circumstances may be, and are in fact, entirely different?

In the next place I would observe that the system of measures adopted in 1850, were intended to comprise all the known subjects of controversy between the different sections of the Union, so as to put an end to the slavery question forever: they were to be a finality; they were intended to redress all existing grievances—and the Missouri restriction was a grievance in 1850 if it be so now. That measures comprehending every cause of dissension or difficulty were really intended, appears from what Mr. CLAY said in his opening speech, delivered in the Senate on the 5th of February, as follows: "When I came to consider this subject, there were two or three general purposes which seemed to me most desirable, if possible, to accomplish. The one was to settle all the controverted questions arising out of the subject of slavery; and it seemed to me to be doing very little if we settle one question and left other disturbing questions unadjusted. It seemed to me but doing but little if we stopped but one leak in the ship of state and let other leaks capable of producing danger, if not destruction to the vessel. I therefore turned my attention to every subject connected with the institution of slavery, and out of which controverted questions have sprung, to see if it were possible or practicable to accommodate and adjust the whole of them." He frequently addressed the Senate on the importance—nay, the necessity of comprehensive and final measures of reconciliation.

He often specified all the known causes of irritation; and on one occasion he spoke of them as "five gaping wounds"—meaning only the matters already alluded to. In no instance did he speak of the Missouri restriction as a wound or cause of irritation, nor did he dream of setting it aside. In no instance did any other member suggest or propose the overthrow of that restriction. Nothing is to be found in the reports submitted to the Senate or House to that effect. Nothing in the speeches of honorable members. Nothing in the resolutions or acts of State Legistures, and nothing in the suggestions of the press—either North or South. We were to have a final adjustment; the harmony of the country was to be restored; and every possible occasion for the reintroduction of these irritating topics into Congress was to be removed. All this was attempted, and was supposed to have been accomplished. The country rejoiced accordingly, and the authors of this happy consummation were regarded by an immense majority of the American people as public benefactors. The universality of the adjustment was recognised by President FILLMORE in his annual Message, (2d session of the 31st Congress,) in these words: "The series of measures to which I have alluded are regarded by me as a settlement, in substance and principle—a final settlement of the dangerous and exciting subjects which they embrace." I venture to assert, also, that the honorable chairman (Mr. DOUGLAS) himself took exactly the same view of the subject—for he observed, in a speech delivered in this chamber, on the 23d December, 1850: "I wish to state that I have determined never to make another speech on the slavery question. And I will now add the hope that the necessity for it will never exist. I am heartily tired of the controversy." And then he added, "I will therefore say to the friends of those measures, let us cease agitating; stop the debate, and drop the subject. If we do this, the Compromise will be recognised as a final settlement. If we do not, we have gained but little by its adoption." And yet, according to the views now presented by the Senator, there was *no* final settlement—there remained undisposed of the question of the abrogation of the Missouri restriction, which was calculated, more than any other cause, to inflame the country, and set it by the ears. He knew that Territories must sooner or later be formed out of the country—or some part of it—north of the parallel of 36° 30'.

Could he have imagined that on the formation of such Territories the abrogation could be introduced without raising another storm. And then, what a singular method the Senator has of *dropping* the subject, and of carrying out his determination "never to make another speech on the slavery question." I strongly suspect

that the old relish has returned, and that the disgust of which he spoke was evenescent and temporary.

In the next place, Mr. President, I take the ground that the Compromise Measures of 1850 were formed and carried through Congress on the basis of mutual concessions, and with a view not to give either section any considerable advantage over the other. This I can prove by recurring to the speech of Mr. CLAY, already quoted, in which he says: "It appeared to me, then, that if any arrangement, any satisfactory adjustment could be made, of the controverted questions between the two classes of States, that adjustment, that arrangement could only be successful and effectual, by exacting from both parties some concession—not of principle—not of principle at all, but of feeling, of opinion, in relation to the matters of controversy between them. I believe that the resolutions which I have prepared fulfill that object. I believe that you will find upon that careful, rational, and attentive examination of them which I think they deserve, that by them neither party makes any concessions of principle at all, though the concessions of forbearance are ample." I would observe here, that the measures ultimately adopted were based on the resolutions of Mr. CLAY; and, indeed, there is an exact coincidence between them. It was supposed that the principle of mutuality of concession had been fully carried out; and on this idea the people acquiesced, and on this only.

The same view of the subject was taken by Mr. WEBSTER in his speech delivered in this chamber, July 17, 1850. I quote as follows: "Well, sir, the next inquiry is, what do Massachusetts and the North, the anti-slavery States, lose by this adjustment? I put the question to every gentleman here, and to every man in the country. They lose the application of what is called the Wilmot Proviso, to *these Territories*, and that is all. There is nothing else that I suppose the whole North are not willing to do or willing to have done. They wish to get California into the Union and to quiet New Mexico; they wish to terminate the dispute about the Texas boundary, cost what it may. They make no sacrifice in all these. What they sacrifice is this: the application of the Wilmot proviso to the Territories of New Mexico and Utah, and that is *all*." Here is the same idea of mutuality: the South would concede the admission of California into the Union, and the North governments for New Mexico and Utah without the Wilmot proviso. They would sacrifice the application of the Proviso to *these* Territories. Mr. Webster did not dream that they were at the same time sacrificing the restriction of 1820, or in other words, that we were admitting slavery into the countries which we acquired from France, lying north of 36 deg. 30 min. I am truly happy to call to my aid, under this head of remark, the honorable chairman himself, referring again to his Chicago speech, which is, I admit, characterized with ability. He undertook, on that occasion, to defend the mutuality and the equality of the concessions made on the one side and the other, and the justice and propriety of the adjustment. After expatiating on the various topics embraced in the Compromise, he makes the following broad declaration, "*neither party has gained or lost any thing, so far as the question of slavery is concerned.*" Texas has gained ten millions of dollars, and the United States has saved in blood and treasure, the expenses of a civil war." The honorable Senator did not intimate to his constituents that he had been undermining or tearing down the restriction of 1820. The statement of such fact would have created a profound sensation at Chicago, and indeed throughout the whole northern country. I will not do the Senator the injustice to suppose that he entertained any such idea at the time, for that would be to hold him up to the nation as the most disingenuous of men. If he chooses now to hold *himself* up in that light, it is an affair of his own, not mine. The repeal of the 8th section would have completely unsettled the balance of concession which Mr. CLAY so carefully adjusted as between the two sections. The South would have obtained a great victory over the North, nay, *an absolute conquest!* It would be a mockery to call the measures of 1850 a compromise on this hypothesis.

Besides all this, I can prove, from the language held by the leading members of Congress during the pendency of this controversy, that nothing could have been further from their thoughts than the repeal of the 8th section of the Missouri act. I shall begin with, referring to the speeches of Mr. WEBSTER. In his celebrated 7th of March speech, I find the following passage: "And I now say, sir, as the proposition on which I stand this day—and upon the truth and firmness of which I intend to act until it is overthrown—that there is not at this moment within the United States, or any Territory of the United States, a single foot of land, the character of which, in regard to its being free territory or slave territory, is not fixed by some law, and some irrepealable law, beyond the power of the action of the Government." This opinion, so strongly expressed, was based on the idea that the character of the territory northwest of the Ohio and east of the Mississippi, was fixed as free territory by the ordinance of 1787, that the territory west of the Mississippi and north of 36 deg. 30 min. was also fixed as free by the restriction of 1820. That the territory comprised within the State of Texas was fixed as slave territory by the terms and conditions of her admission into the Union. That the territory embraced by the limits of California was fixed as free territory by the provisions of the Constitution; and the Territories of Utah and New Mexico were fixed as free territory by irresistable laws of nature. To some of these topics he barely alluded, and on others he commented at length, and then concluded as follows: "Now, Mr. President, I have established, as far as I propose to do so, the proposition with which I set out, and with which I intend to stand or fall, and that is, that the whole territory within the

former United States, or in the newly acquired Mexican provinces, has a fixed and settled character, now fixed and settled by law, which cannot be repealed; in the case of Texas without a violation of public faith, and by no human power in regard to California and New Mexico. That, therefore, under one or the other of these laws, every foot of land in the States or the Territories, has clearly received a fixed and decided character."

And then, again, he remarks, in his speech of the 3d of June, as follows: "On the 7th of March, sir, I declared my opinion to be that there is not a square rod of territory belonging to the United States, the character of which for slavery or no slavery is not already fixed by some irrepealable law. I remain of that opinion." And then, after some observations not material to be quoted, he adds: "I have heard no argument calculated in the slightest degree to alter that opinion; the committee, I believe, with one accord concurred in it." How could Mr. WEBSTER use such broad language if he had supposed that Congress were, by the Compromise Measures of that year, laying the foundation for the overthrow of the restriction of 1820. A quotation from a subsequent part of this speech of the 3d of June, will prove conclusively what his views were: "And let it be remembered," he says, "that I am now speaking of New Mexico and Utah, and other territories acquired from Mexico, *and nothing else.*" I confine myself to these; and as to them, I say, that I see no occasion to make a provision against slavery now, or to reserve to ourselves the right of making such provision hereafter. All this rests on the most thorough conviction that, under the laws of nature, there never can be slavery in these Territories. This is the foundation of all." Mr. WEBSTER obviously thought that the Missouri restriction was a "fixed fact;" and as the celebrated Committee of Thirteen unanimously concurred with him in the opinion, the position which I assume is impregnable. It is idle to pretend that Congress intended by the measures of 1850 to set aside the Compromise of 1820.

But I maintain that the universality of the adjustment of 1850 has been recognised and admitted in the proceedings of Congress until within a very short period. The action of the two Houses on the Nebraska bill of the last session is a very striking illustration of this fact. It is true that the bill then said nothing on the subject of slavery, either one way or the other. It did not repeal the 8th section of the Missouri act, and therefore left it to operate on the Territory in all its vigor. The attention of the House was particularly called to this fact by an honorable member, (Mr. GIDDINGS,) whose appearance on the floor was pre-eminently adapted to arouse the suspicions and awaken the vigilance of Southern members. After quoting the 8th section of the act of 1820, he remarked that "this law stands perpetually, and I did not think that this act would receive any increased validity by a re-enactment. There I leave the matter. It is very clear that the territory included in that treaty must be forever free, unless that law be repealed." And yet in face of this broad avowal, no less than twenty members from slaveholding States, as before stated, including Mr. Johnson, the present Governor of Tennessee, voted for the bill. How idle is it to pretend now that we had either repealed, or had laid the foundation for repealing, the restriction of 1820, by the Compromises of 1850.

The bill was sent to the Senate, and fell into the hands of the honorable chairman; and he reported it back to the body with the recommendation that it should pass without amendment. He was strenuous in his efforts to bring it to the consideration of the Senate, and to secure its passage. He then addressed the Senate at length, and said that it was an act very "dear to his heart." It was dear when he was going for freedom, and it is probably more dear now when he is striking for slavery. Not a word did the Senator say about the wonderful workings of the measures of 1850 in subversion of the 8th section. He tells us that the bill underwent a thorough investigation, both in the House and by his committee; and he seems then to have made no discovery of the occult elements now found to have been lurking under the verbiage of 1850, to which he would give such an extraordinary effect. Even the distinguished and honorable Senator from Missouri, (Mr. ATCHISON,) was in the same oblivious frame of mind: for, in addressing the Senate on that occasion, he remarked, "I found that there was no prospect of the repeal of the Missouri Compromise, excluding slavery from that Territory." It is certain, then, that nobody dreamed—down to so late a period as the last session—that we had, in 1850, done anything to break down, or even weaken, the Compromise of 1820.

I do not envy the position in which these facts place the honorable chairman. Did he suppose, in 1850, that we were subverting the 8th section, or laying the foundation for its subversion? If so, why did he not undeceive Mr. WEBSTER? Why did he suffer him to act with fearful responsibilities, under the delusion that the territory north of 36 deg. 30 min., and this side of the Rocky mountains, was fixed, irrevocably fixed for freedom? Why did he suffer the honorable Senator from Missouri to fall, at the last session, into the same error? Or, rather, why did he not rise and correct it on the spot? Why not communicate with his friends in the House of Representatives, and why not lay the true state of the case before the Senate and the country? The Senator, by the position he now assumes, arraigns himself; he impeaches his own conduct; he furnishes conclusive evidence on the issue adverse to himself; and the verdict of impartial and upright men will be quite likely to shock his self-esteem, and to give him a place and a name on the pages of American history quite the reverse of enviable.

But, Mr. President, I deny that there is to be found any such principle or policy in the legislation of 1850, as is suggested in this amendment. I deny that, by the Territorial acts for New Mexico and Utah, you conferred on the people

there the power to regulate, at pleasure, their domestic institutions or left them free to act on this or any other subject. No such liberty of action has ever been conferred by this Government on the people of the Territories. Originally, the whole power of legislation was confided to the governor and judges of the respective Territories; but latterly, the people, I admit, have been allowed to participate to some extent therein.

But let us recur to the New Mexico and Utah acts, and see how the matter stands. I say there is written down in each of those acts a declaration of want of confidence in the people of those countries. We have invested the President with the power of appointing, by and with the advice and consent of the Senate, all the executive and judicial officers of each Territory. We have assumed that the people are not competent to elect such officers. How, then, can it be supposed that Congress intended to confide to them, exclusively, the power of deciding the momentous question of slavery or freedom.

It is true they are authorized to choose a council to consist of thirteen members, and a house of representatives to consist of twenty-six, but "the legislative power and authority" is not vested in them solely, but the governor is associated with them in the exercise thereof. The language of both acts is, "that the legislative power and authority of such Territory shall be vested in the governor and legislative assembly;" and again, "that the governor shall approve all laws passed by the legislative assembly before they take effect." Hence, it appears, that the people can do nothing without the assent and concurrence of the governor. Give me the appointment of the governor, and I can exclude slavery forever if not introduced, or perpetuate it if tolerated. No matter how anxiously the people may desire its introduction or its exclusion—no matter though they may be unanimous in calling for slavery or freedom, the governor, who holds his office at the will of the Executive here, can pronounce a peremptory negative, and overrule their wishes.

But this is not all, sir, another part of the acts provides that, "All the laws passed by the legislative assembly *and governor*, shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect." Singular liberty, this! And equally singular method of conferring on them the power "to form and regulate their domestic institutions in their own way." Congress says, in effect, we will not entrust to you the power to enact even a wolf or dog law—we will appoint a master over you—one who is not responsible to you, but to us; he shall revise all your doings, and may write them down a nullity if he sees fit. And in order to make all safe we reserve to ourselves the power of ultimate revision. Though you obtain even the concurrence of the governor, it shall not avail you; in short, we do not intend you shall have any legislation for Utah and New Mexico except just such as we approve. The demands for these precautions were infinitely more urgent in respect to the newly acquired Mexican provinces, than in ordinary cases. How was it with New Mexico? We had there an uncongenial and a hostile population, speaking a foreign language, just subdued by our arms, ignorant of our form of government and unfamiliar with the principles of our free institutions. How indispensable, then, was it that we should have the power to hold such a population in check, and to overrule any and all their determinations, and yet in face of the plain provisions of these acts of Congress, and of the palpable facts of the case, this amendment, in effect, asserts that we left them "perfectly free to form and regulate their domestic institutions in their own way."

But, Mr. President, I will bring the matter at once to an issue, which I challenge the honorable chairman of the committee, (Mr. Douglas,) to meet. You say that by the Utah bill you intended to leave the people there perfectly free to regulate their domestic institutions as they might see fit. What are those domestic institutions or relations? They are husband and wife, parent and child, guardian and ward, and master and servant. Now, I desire to ask the chairman, did you intend to confer on the people of Utah the power to introduce *polygamy*, for that appertains to one of the domestic relations. I want the honorable chairman to stand up here and tell us whether, if the legislative assembly were to send an act here sanctioning polygamy, he would let it stand a single hour? On the contrary, would he not seize a pair of tongs and thrust it out of yonder window?

But, Mr. President, let us trace this matter a little further; let us consider what would be the *modus operandi* of the singular *principle*, announciated in the amendment, in reference to the polygamous relations of Utah. If they may introduce polygamy in their Territorial condition, if this is one of the relations which they are perfectly free to establish, and if Congress cannot gain say it, then I say Utah can knock for admission into the Union, and must be received, though she be covered all over with this moral leprosy. We must admit Brigham Young with his forty wives! Nay, more! Brigham might, and probably would, be elected one of the Senators from the new State: has the honorable chairman considered whether he is to bring his forty wives to the Seat of Government; and if so, I would ask in what part of the city is he to establish his harem? The committee on "Public Buildings and Public Grounds" should take his case into tender consideration, as it seems to me. Any patriot having forty wives on his hands, ought, in the matter of his harem, to have a little relief from the public coffers. And, besides, our present system of "*mileage* and *per diem*" would hardly do for such a case. I would suggest to my friend the chairman, (Mr. Douglas,) he should allow at least two dollars per day additional for each wife. Discrimination would be indispensable. I have long thought that there should be some distinction made between those Senators who do their duty to society and the fairer portion of God's creation, and those who

do not; but however this may be, the case of our friend Brigham would cry aloud for relief, and the honorable chairman is not the statesman he has been cracked up to be unless he woule be willing to grant it!

But, Mr. President, we will suppose Utah admitted, Brigham elected Senator, and actually present in this city with all his retinue, and that he forms a procession, with himself at the head, of the aforesaid retinue for the Capitol. Being somewhat fatigued, he all at once makes a dash with his twice twenty wives for an omnibus, in one corner of which is sitting my worthy friend the chairman. What would become of the Senator? Would he not be stifled? But suppose he escapes, and the omnibus draws up in front of the Capitol; the honorable Senator, who is so much distinguished for his urbanity, could do no less than hand the "domestic institutions" out, and conduct them into the Capitol. Who, then, shall rise and move that this chamber be opened to "*the ladies?*" It cannot be my honorable friend from Texas, (Mr. Houston,) who ordinarily performs that grateful office, for he is utterly opposed to this bill; but at the instance of some Senator who is in favor of the "principle" avowed in this amendment, the doors are thrown open, and in rushes Brigham and his forty wives, who arrange themselves around the chamber. The Hon. Brigham! on being sworn in, immediately takes the floor on "the negro question." And O! how the eyes of "the darlings" would flash, and their countenances beam with joy, as their leige lord towered away on the superlative advantages of negro servitude over good old fashioned Saxon liberty, and "the inalienable rights of man!" By the time, Mr. President, all this is over, we should begin to understand the *modus operandi* of this monstrous system—of this unheard of proposition—to leave the people of the Territories to regulate their "domestic institutions" just as they please. *Polygamy!* and *Slavery!* fit associates—united in the bonds of unholy wedlock, and producing a miscreated progeny, called in the first instance "principles," but which has finally dwindled down to "the principle of non-intervention with the domestic institutions" of the Territories, the people whereof are to be left "perfectly free to form and regulate them in their own way."

Let the honorable Senator stand up here and say that he is for a system which will convert the interior of this continent into a Sodam, and which will conflagrate it with brimstone, unless a righteous God, who rules the destinies of men, shall order it otherwise.

But, sir, I contend that the bill itself will be nothing but jargon—nothing but a bundle of contradictions and inconsistances if this amendment prevails. There will be all sorts of discordant voices and notes therein. One clause cries out the people, represented by the council and house of representatives, may be overruled by the governor, and another that the council, house of representatives, governor and all, may be overruled by Congress, and then comes the amendment which asserts, almost impudently, that we leave the people of these Territories "to regulate their domestic institutions" as they may think best. How can inconsistency go further; and how can legislative hypocracy exhibit a more brazen front.

And what is more, not one-half of the work of upturning ancient foundations will have been done. You must immediately attack the restriction of slavery introduced by an immense majoriiy, and by many Southern votes, into the Oregon bill, and you must demolish the ordinance of 1787, in its application to so much of Minnesota as is situated east of the Mississippi. In short, the whole structure of legislation which has been erected with so much of toil, and which has engaged so much of the abilities of the greatest and best man of the nation, is to be swept to the ground, and all that is malignant in fanaticism both North and South, and all that is wild, unreasonable, and pestiferous in sectional strife is to be let loose upon our national counsels and upon the country.

It results, Mr. President, from these considerations, that the basis of the adjustment of 1850 was not to leave the people of the Territories free to regulate their domestic institutions as they pleased, but it was the "*statu quo ante bellum.*" We were to leave the country exactly in the condition we found it—some part of it tolerating slavery, and some part of it excluding it. The object was to effect some arrangement that would restore harmony to our national councils and peace to the country, and therefore it was concluded that we should not insert the Wilmot Proviso in the Territorial bills of that year, but pass them silent on the subject of slavery, with the distinct understanding that we were to drop the subject entirely. That this was the great predominating idea of the adjustment, I can prove from the record. It is well known that all the countries acquired from Mexico were subject to an anti-slavery restriction, as the laws of that republic remained in force notwithstanding the conquest, until set aside by competent authority. The supreme government of that country had long before the war abrogated the so-called institution of slavery, and converted all the territories within its jurisdiction into "free-soil." This important fact is distinctly referred to and recognised by Mr. Clay in his speech of February 5th. "By law" (he says) "slavery does not exist within the territories ceded to us by the Republic of Mexico." * * * "I can only refer to the fact of the passage of a law by the supreme government of Mexico abolishing it, I think, in the year 1824." * * * "The laws of Mexico, as they existed at the momoment of the cession of the territories to this country, remained their laws still, unless they were altered by the new sovereign power which this people and their territories came under in consequence of the treaty of cession to the United States." Certain Southern Senators were not satisfied with the mere exclusion of "the Wilmot Proviso" from the Territorial bills—they demanded an abrogation of this Mexican law, but the Senate refused to concede such abrogation.

On the 23d of July, Mr. DAVIS, of Mississippi, (the present Secretary of War,) submitted an amendment to that effect, but it was rejected, yeas 22, nay 33. My honorable friend from Illinois (Mr. DOUGLAS) seems not to have been present, and did not vote. This proves conclusively that the basis of the adjustment, or if you will have it so, "*the principle*" was "*the statu quo.*" There was an existing obstacle to the introduction of slavery into the Territories, and Congress was asked to remove it out of the way—but the response was no! no! we leave matters to stand as we find them—we wish to drop the subject. If Congress refused to remove an impediment which existed to the introduction of slavery into the Territories with which they were at the moment dealing, how can it be said that they intended to strike down a similar impediment appertaining to other and different Territories which were not before us at all, nor in the thoughts of any one. If, Mr. President, considerations such as these do not satisfy honorable Senators that the basis of the adjustment of 1850 was in truth and in part such as I now contend for, it is idle to pursue the argument further

I have thus, Mr. President, called to the notice of the Senate the essential elements of the case which I desire to present, and it only remains for me to advert briefly to certain topics which honorable members, who favor this measure, attribute considerable importance; but which, in my judgment, are entitled to no consideration whatever. Having performed this task, I shall hasten to a conclusion as soon as may be.

In the first place, I wish to notice what was said by the honorable chairman (MR. DOUGLAS) on his attempt, in 1848, to carry the parallel of 36° 30′ through to the Pacific ocean, in which, it seems, he failed. Herein he seems to suppose he can find an ample justification for the attempt which he is now making to break up the Compromise of 1820. Now, Mr. President, what are the facts? There was pending before Congress a bill to organize the Territory of Oregon, the whole of which was situated north of 36 deg. 30 min., the southern line being in the parallel of 42 deg. north latitude, or, in other words, 5 deg. 30 min. north of the Missouri line.

The bill, if I mistake not, originated in the House, and, when under consideration in the Senate, it is true the honorable Senator submitted a proposition for an extension of that parallel through to the Pacific ocean as a division between free territory and slave territory, which amendment was adopted by the Senate. In the House, however, it was regarded as incongruous to the main object of the bill, and was rejected accordingly. I cannot see how the Senator can, from this occurrence, derive any apology—much less a justification of his course. If a division on the line of 36 deg. 30 min. was a proper basis of adjustment in 1848, it was equally so in 1850; and why did not the Senator support that basis then, as he had an ample opportunity to do? It appears from the record, that Mr. DAVIS, of Mississippi, submitted in this body, July 19, a proposition to divide on the parallel of 35 deg., which was rejected by a vote of yeas 23, nays 32—the honorable Senator voted in the negative; that, on the same day, Mr. KING, (late Vice President of the United States,) submitted another proposition to divide on the parallel of 36 deg., which was rejected by a vote of yeas 20, nays 37—the honorable Sentor voted in the negative. It also appears, that on the 6th of August, Mr. TURNEY submitted a proposition to divide on the parallel of 36 deg. 30 min., which was also rejected by a vote of yeas 24, nays 32, and the honorable Senator again voted in the negative. The Senator, in his opening speech, says that the defeat of 1848 "created the necessity of making a new compromise of 1850." How so? Was not the whole subject under our control? Was it not just as easy to establish that line in 1850 as it was in 1848. In his speech at Chicago, the Senator assigns reasons enough why that line should not have been adopted; he insisted strenuously on that occasion, that the only effect of the division of California on the parallel of 36 deg. 30 min. would be to create two free States in place of one on the Pacific; and this indicated the main ground of my opposition to that parallel. I have ever thought it very bad policy for the Atlantic States, and particularly the glorious old Thirteen, to bring on this Government an avalanche of States to be carved out of our Mexican acquisitions. The resort of the Senator to such an argument as this is sufficient proof that he himself is conscious that he has very slender ground to stand on to vindicate the policy of this measure.

But by far the most extraordinary part of the honorable Senator's speech consists in his attempt to place himself in *an anti-slavery* position. He went into a long induction of facts, in order to prove that the restriction of slavery has ever been, and ever will be, unfavorable to freedom. He remarked that the Territory of Iowa was organized without any prohibitory clause, and yet (says he) it became, and now remains, a free State. But the honorable Senator seems to have forgotten that the 8th section of the Missouri act remained in full vigor, and was binding on the people of Iowa during their Territorial existence. It was not necessary that the 8th section should have been re-enacted or reaffirmed in the act creating that Territory. Repetition would not have given it one particle of additional force, so that the people of Iowa enjoyed the benefits and blessings of exclusion while a Territory, and, in consequence, they enjoy the fruits of that policy to this day.

I very much regret that the honorable Senator should have made such strenuous efforts to discredit the ordinance of 1787, which, according to his account of the matter, tended powerfully to the introduction of slavery. He represents the people of the Northwest as engaged in incessant insurrections against its authority; that they regarded it as an act of grinding oppression, and would have slaves, and did have them, in spite of it. What foundation is there for such a pretence as this? There were a few French settlers who held slaves *de facto*; will the honorable Senator take the responsibility as a lawyer of saying that these persons were

slaves *de jure*? Would not the *habeas corpus* have delivered every one of them from servitude? He does not say whether there were any acts contravening the ordinance; and if so, I should like his opinion on their validity. Sir, the ordinance of 1787 constitutes the main pillar of that vast and glorious fabric of society which is exhibited northwest of the Ohio, and which in point of wealth, vigor, intelligence, and universal progress, is without a parellel in this or any other country. Under its benign and ever present influence, there has been built up no less than five large and prosperous States, which will be an ever-present illustration of the advantage which free communities have over those that tolerate African bondage. I can hardly think, therefore, that the honorable Senator has maintained his anti-slavery position; and the avidity with which Senators from slaveholding States come forward to sustain his proposed immolation of the Missouri restriction, is pretty conclusive proof that they think there is very little in this branch of his argument.

And here, Mr. President, I must take some notice of the very novel ground taken by the Senator from Kentucky, (Mr. DIXON,) that although as a representative of one of the slave States, he might not have submitted this proposition, yet inasmuch as it is brought before the Senate, and offered by the North, he may properly accede to the offer and vote for the abrogation. I want my friend to consider, that if he places his vote on this ground, he may find himself involved in very considerable difficulty.

I think, with great deference and respect, that the Senator ought to have some other evidence of the desire of the North than the mere opinion of any one Senator, however respectable he may be. I would ask the Senator if he is quite sure that a majority of the Committee on Territories is in favor of this measure? Two of the members have already declared their opposition; and I strongly suspect it will appear, before we get through, that there is a third member equally opposed, and then the bill will be a mere straggler in this Chamber, and ought to be dismissed for that reason. And I will ask another question: Suppose it turns out that a large majority from the North, even of the Senate, is opposed to this proposition, and a much larger majority of the House, where will the Senator be then? Suppose Northern members shall be induced to betray their constituents in sufficient numbers to pass the bill through the House, and suppose the moment the people get hold of them they are hurled with ignominy into private life, I ask again where will the Senator be? After all, is this a statesmanlike argument, and worthy of the successor of HENRY CLAY? Is a measure like this, subverting one of the most solemn acts of this Government, which has lain at the foundation of the peace of the country for over one-third of a century, to be put through on the ipse dixit of a single Senator from the North? I am pretty well convinced that my friend will find out that the honorable chairman of the Committee on Territories is not exactly the proper exponent of Northern sentiment and Northern feeling. He will find out that the honorable chairman does not carry the whole North in his breeches pocket.

I maintain, Mr. President, that the people of the South, and their Representatives in either wing of the Capitol, should be the last to seek or favor the abrogation of the Missouri Compromise. They should not seek it for the sake of their own honor, which they cannot but desire to remain unimpeached and intact. The measure was carried through the two Houses mainly by Southern votes, and wholly by Southern influence. Mr. CLAY, in his speech already more than once referred to, says: "My friend from Alabama in the Senate, (Mr. KING,) Mr. Pinkney, from Maryland, and a majority of the Southern Senators in this body, voted in favor of the line 36 deg. 30 min.; and a majority of the Southern members in the other House, at the head of whom was Mr. LOWNDES himself, voted also for that line. I have no doubt that I did also, but as I was Speaker of the House, and as the journal does not show which way the Speaker votes, except in the cases of a tie, I am not able to tell with certainty how I actually did vote, but I have no earthly doubt that I voted in common with my other Southern friends for the adoption of the line 36 deg. 30 min." Here, then, was a measure adopted under the auspices of such men as KING, PINKNEY, LOWNDES, and CLAY, for the adjustment of a great and fearful controversy between sections. You have enjoyed the full benefit of it. You secured the admission of Missouri at the time, and Arkansas since. The admission of Texas was arranged on the same basis; and now, when the time has come for a realization of the just expectations of the North, you propose to break the bargain. How can this be done without an impeachment of your honor? and how can the North, on this hypothesis, repose the slightest confidence in you hereafter? Will not compromises and adjustments in future be impossible? and will not sectional strife infest our public councils and pervade the whole country? I verily believe that this measure is contrary to the true interests of the South. What you want is peace. Often and often have you said let us alone—leave our institutions undisturbed. Your true position is a defensive one; but this is a measure of aggression on the North. You have commenced a war on Northern feelings, Northern sentiments, and what will be regarded as Northern rights and interests; and you may depend upon it that war will be returned with relentless fury.

I also insist that this measure is contrary to the true interests of this Administration. With a President elected by an overwhelming majority, and with majorities in the two houses nearly as decisive, the last thing you should have done was to throw this bomb-shell into Congress. Why not devote yourselves to the dispatch of the public business? Why not turn your attention to the Pacific Railroad, to a reduction or modification of the tariff, to harbor and river improvement, to an amelioration of your army and navy laws, and to the vast multitude of sub-

jects, some of a public and some of a private concern, which now solicit our attention? And what progress, Mr. President, have we made with the public business, and what are we likely to make? What an extraordinary spectacle has been exhibited in the House of Representatives! Weeks spent in perfecting a deficiency bill, which is then crushed down and buried so deep as to be beyond the possibility of resurrection. Be it remembered, that whatever of beneficial legislation the country is to have during any presidential term, must be accomplished at the first session of the first Congress of that term; the second session is too brief for action on anything else than the appropriation bills; and the second Congress is uniformly occupied, though very improperly, with the presidential election, and by preparation for the inauguration of a new Chief Magistrate and the arrangement of his Cabinet. In order to make it certain that we are to do nothing for the country, you have involved us in this negro controversy. The Senate is to be occupied with it many weeks, and, I venture to assert, that the House will be so occupied most if not all the session. If I were the worst enemy which FRANKLIN PIERCE has on earth, (and I should be sorry to be regarded his enemy at all,) I would do the very thing which has been done by the honorable chairman of the Committee on Territories, by introducing a proposition here wholly uncalled for, and fraught with nothing but mischief.

It is with infinite concern that I witness the course Which my whig friends, honorable Senators from the South, deem it proper to pursue on this subject. They seem, almost to a man, disposed to rush forward to the support of the honorable Senator from Illinois. Two of them, one the successor of HENRY CLAY, (Mr. DIXON,) and the other, par excellance, his friend, (Mr. JONES,) have already given in their adhesion to this measure. Now, I say to those honorable Senators, in a spirit of kindness and respect, that I regard the proposed amendment of the Missouri restriction as a measure of radicalism—extreme radicalism. And do the honorable Senators suppose that the Whig party, as a great national party, can be kept on foot on any such basis? Sir, the very moment you pass this measure you explode not only the Missouri Compromise, but the adjustment of 1850, and the Baltimore Whig Platform of 1852. You blow the Whig party into ten thousand atoms. Another Whig National Convention will be impossible. Nothing can induce me to become, on the contingency named, a party to such convention. It will be idle to attempt any understanding with Southern Whigs on the subject of slavery.—Did we not go at Baltimore the finality of the Compromise of 1850? Did we not agree to stand by even the Fugitive Slave law, so distasteful to many of our people? Did we not, on occasion of a proposition by the honorable Senator from Massachusetts, (Mr. SUMNER,) to repeal that act, abide our promise and vote in the negative? Do you not now tell us in effect that all such covenants are binding on us in *perpetuo*, but not binding on you any longer than you choose to be bound? I repeat, this measure, if carried, is and ought to be fatal to the Whig party, and I think it will be equally fatal to the Democratic party. Behold the elements of discord and repulsion now in full activity in your midst! And when all outside pressure is withdrawn, by the destruction of the Whig party, what will become of you? Will you not be scattered to the four winds of Heaven, and will not all existing organizations be broken up?

Sir, I have become heartily tired of public life, and I hope soon to find repose in seclusion in the bosom of my family. I am greatly offended at the turmoil which we have incessantly had on this miserable subject. Why, Mr. President, I have hardly been able, for years, to enter either chamber without being involved in all the *effluvia* (perhaps the honorable chairman would say *aroma*) of some negro question. Even now it fills the chamber—"it smells to Heaven." Why will you suffer demagogues to be incessantly dabbling in this subject—stirring up this offensive cess-pool, existing in the midst of the body politic. I say to you plainly, Senators from the South, unless you frown on such attempts, we shall be in hot water all the while. There will be in both quarters of the Union designing men, trying to make either party or personal capital out of this subject. It has got to be high time that we had a body of independent men in the country. If I had one hundred thousand good and true men scattered all over this vast Republic, to stand by me, I would engage to put down the whole tribe of demagogues. A handful of men, compact and united, can often turn the scale between contending factions, and subdue them to reason. I hate a Northern anti-slavery demagogue, and I hate a Southern pro-slavery demagogue. I think meanly of them all; but of all the mean reptiles which God, for some inscrutable purpose, suffers to crawl and to beslime the earth, I think a Northern pro-slavery demagogue is the meanest.

But, Mr. President, if all compromises and platforms are to be blown up by the passage of this bill, and if in consequence I am drawn into a position not unlike that of the soldier at the battle of New Orleans, who, when inquired of by General Jackson, to what regiment he belonged, replied he was there fighting on his own hook, I intend to have a platform of my own, and I am happy to inform the Senate that I have found one which suits me exactly, and I wish to produce it here by way of notice to my constituents and the country.

On the 11th day of June, 1846, a Democratic State Convention was held at Concord, N. H., whereat a Committee on Resolutions was appointed, of which the eminent citizen, now President of the United States, was chairman, who reported to the Convention a series of resolutions, from which I take the following:

"*Resolved*, That we reaffirm the sentiments and opinions of the Democratic party and Democratic statesmen of the North, entertained from 1776 to the present day, in relation to slavery—that *we deplore its existence and regard it as a great moral and social evil*, but with this conviction we do not deem ourselves more wise than Washington, Franklin, and their associates, and that patriotism, common honesty, and

religious principle, alike bind us to a sacred observance of the compact made by those wise men."

"*Resolved*, That the policy to be pursued in reference to slavery, rests with the States and Territories within which it exists—that whatever parties may profess, it is only as citizens of such States and Territories, that the members of those parties can essentially influence that policy, and that angry external agitation, by exciting the prejudices of the slaveholding communities, while it may endanger the Union, tends rather to fasten than to destroy the bonds of the enslaved."

I agree, Mr. President, to every word of these resolutions. It is true, I was very much puzzled in the first instance to determine how the origin of the Democratic party of the North could be carried back to so remote a period as 1776, but when I came to read out of the Declaration of Independence that "all men are endowed with 'certain inalienable rights—that among these 'are life, liberty, and pursuit of happiness," it became very plain. I was equally puzzled by the reference to Washington and Franklin, particularly to the latter, but on searching out the public documents I was enabled to solve the mystery. It appears that a memorial by Benjamin Franklin, as president of the Pennsylvania society for promoting the abolition of slavery, was presented in the Senate at the first session of the first Congress, held under the Constitution, to wit: on the 12th of February, 1790, from which I make the following extract: "that mankind are all formed by the same Almighty being, alike objects of his care and equally designed for the enjoyment of happiness—the christian religion teaches us to believe and the political creed of Americans fully coincides with the position." "They," the memorialists, "have observed, with particular satisfaction, that many important and salutary powers are vested in you," that is to say in Congress, "for promoting the welfare and securing the blessings of liberty to the people of the United States, and as they concieve that these blesings ought rightfully to be administered without distinction of color to all description of people, so they indulge themselves in the pleasing expectation that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed." I admit, Mr. President, that we are bound "to a sacred observance of the compact which unites us as a nation—we should not on the one hand seek to overthrow slavery by violating its provisions, nor on the other pervert its true intent and meaning by making it an instrument for the extension of this "great, moral, and social evil" all over this continent. Would "Washington, Franklin, and their associates," including of course Jefferson, (who once exclaimed, "I tremble for my country when I recollect God is just") have gone for any such extension?

Having thus cleared the subject of all doubt, I am prepared to give in my adhesion to every word contained in these resolutions. They reflect high honor on our worthy Chief Magistrate. I embrace them with all my heart. I am willing to live and lie by them—in short, to make them religiously my rule of conduct now and at all times. Let us see what they are: "Slavery rests with the States in which it exists"—true! "Slavery rests with the Territories in which it exists"—true! true! It is only the citizens of such States and Territories that can effectually influence or settle the policy which should be pursued on this perplexing subject—exactly true! "Angry external agitation by exciting the prejudices of the slave-holding communities, while it may endanger the Union, tends rather to sustain than destroy the bonds of the enslaved"—true! every word true!

Mr. President, I have ever been opposed to this external agitation, and am so still. I admit we have no constitutional or legal right to interfere with slavery in the States, and I think it inexpedient to interfere with it in the Territories where it exists. And I admit, further, we have no moral right to harass and worry the people of such States and Territories by fruitless external agitation—I condemn it utterly; but then you must permit me to say, with the Chief Magistrate of the country, that we regard it as a great moral, social, and political evil, and therefore it is not a proper subject of extension. I do not like very much to speak of slavery as a "moral evil," because it seems to give offence to our friends, who suppose we mean to set up pharisaical pretensions to superior morality over the South. It is not so. I admit, there are great moral evils at the North, some of which we are trying to reform, such as drunkeness, and you may chastise us to your heart's content on account of such evils. I must at least be permitted to think of slavery as a great social and political evil. I will never unite with you in considering it the *summum bonum*—as a thing fit to be extended. And here I adopt the words of Henry Clay, to be found in his speech of the 5th of February. I make them my own: "I have said I never could vote for it myself, and I repeat I never can and never will vote, and *no earthly power will make me vote to spread slavery over territory where it does not exist.*" Surely the President must take the same view of the subject. Surely he cannot be willing to extend over the land what he has pronounced "a great moral and social evil"—a deplorable evil. Hence the rumors which have reached us that he is pratonizing this measure, and using his influence to promote it, must be a foul slander!—his friends ought to resent it.

Having thus erected my platform, and having found it sound, after an examination plank by plank, I am prepared for retirement, and I will tell you what I shall do when I am far away from those turbulent scenes. I intend to assume an independent position, and support the best man who is before the country, irrespective of party names. I will not be deterred from giving him my support because he is called a Democrat, or even because he is a slaveholder, provided I am well satisfied he will hunt down agitators and demagogues both North and South. Here are two Senators near me, my friend from South Carolina, (Mr. Butler,) and my friend from Texas, (Mr. Houston,) either of whom would do well for the country—"we might go further and fare worse."

I have no prejudices against my southern brethren; slavery I consider rather the misfor-

tune than the crime of the South. It is only when you become aggressive that I feel bound to resist you. Why should I have any prejudice? My honored father, whose remains I followed to the grave in the fall of 1839, was himself a slaveholder, and my earliest recollections are associated with what you call an institution.

I have sometimes thought, Mr. President, that the North is in danger of being sold out, and that we are to be reduced to servitude. I can hardly believe we are in much danger. It is proper however for me to give full notice that if such an unhappy fate is before us I intend to reserve to myself one liberty—that of *choosing my own master*, and I say now he shall be some high-toned Southern gentleman, and not a Northern dough face, who would sell his birthright for a mess of pottage. I have ever understood that Northern men who go South and turn slave owners, or slave drivers uniformerly prove the most relentless and cruelof masters—Heaven deliver me from such bondage!

And finally, Mr. President, I would inquire where is all this to end? Are the vitals of the Republic to be incessantly lascerated? Is there to be no moderation, no regard to plighted faith—no sence of justice—who is hereafter to stay the raging elements of sectional strife—Clay, Calhoun, Webster, Woodbury, all are gone, and few seem disposed to interpose and say to the surging elements, "*peace, be still.*" I have often wished during the progress of this discussion that HENRY CLAY were living and present to participate in it. He would have opposed to this measure a stern and uncompromising resistance. I deeply deplore his absence. If he were here this day with his erect form, animated countenance, flashing eyes, and fervid accents—he would make these arches ring with his remonstrances against the folly, nay the madness of your course. Sir! I have done, I wash my hands of all responsibilty for the consequences of this measure.